Institute for Political Studies

UDC: 342.721+342.727
DOI: https://doi.org/10.22182/spm.7042020.13
Original research article

Serbian Political Thought
No. 4/2020, Year XXVII,
Vol. 70
pp. 249-265

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FREEDOM OF EXPRESSION AND THE RIGHT TO RESPECT FOR PRIVATE LIFE**

Resume

The paper analyzes the relationship between freedom of expression and the right to respect for honour and reputation. It was pointed out the importance that is given to freedom of expression nowadays, and it was especially considered the practice of the European Court of Human Rights. On that occasion, the difference that exists between public and private personalities was pointed out, as well as the doubts that may arise from the distinction between factual statements and value judgments. When it comes to the right to privacy, the author referred to the importance of honour and reputation, and on that occasion reminded of the "double" presence of these values. In one case it is Art. 10 of the European Convention on Human Rights, and in another the case law of the European Court of Human Rights regarding the meaning of the term of the right to privacy from Art. 8 of the European Convention on Human Rights. Solutions in domestic law and case law are analyzed, and special attention is paid to one case in which the relationship between freedom of expression and violation of honor and reputation was discussed. The specificity of this situation is reflected, inter alia, in the fact that we are talking about university professors.

The author used the normative, comparative and historical method when writing the paper.

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** The paper was written within the strategic project entitled „Identity Transformation of Serbia" which is implemented at the Faculty of Law, University of Belgrade.

Keywords: freedom of expression, honour, reputation, human rights, insult, European Court of Human Rights

INTRODUCTORY REMARKS

The Supreme Court of the United States [SCOTUS] in *Cohen v. California* (403 US15.24 [1971]) pointed out that the guarantee in Amendment I (The US Bill of Rights) on freedom of speech and expression stems from „the belief that no other position is linked to the principle of dignity and free choice of every individual, on which the American political system" (Wachsmann 2012, 450). This approach points to two aspects of freedom of expression, where the first is of a personal and the second of a social and political nature (Favoreu et al. 2009, 478).

The personal aspect of freedom of expression is manifested as the right of everyone to spiritual freedom, ie the right to have opinions and beliefs and to be able to express them freely without fear of harassment. On the other hand, freedom of expression is necessary for social life, because it enables everyone to communicate with others. Properly from the social side of freedom of expression arises its political dimension, as pointed out by the European Court of Human Rights [ECtHR][1] in a 1995 case [ECtHR [G.Ch.], *Vogt v. Germany*, 17851/91, 26. September 1995). On that occasion, freedom of expression was marked as a cornerstone of the principles of democracy and human rights protected by the European Convention on Human Rights (European Convention for the Protection of Human Rights and Fundamental Freedoms with additional protocols Ratification Act – [ECHR], „Official Gazette of Serbia and Montenegro – lnternationals treaties", N ° 9/03, 5/05 and 7/05-correc. and „Official Gazette of the Republic of Serbia – Internationals treaties", N° 12/10 and 10/15).

The importance of the right to freedom of expression is undoubted for the establishment of democratic institutions, because freedom of opinion is possible and conceivable only in an environment that presupposes the presence of different ideas and at the same time enables their confrontation. However, in certain cases, it may

1) It is a judgment Grand chamber [G.Ch.] of ECtHR.

be raised the question of the limits of the exercise of this freedom. These are situations that in the doctrine of constitutional law and the practice of the highest courts are usually referred to as „fighting democracy". This is the basis from which is derived the court's ability to restrict certain rights and freedoms, including the right to freedom of expression (Hennebel and Tigroudja 2016, 1090).[2]

In that sense, the doctrine mentions the prohibition of abuse of rights provided by Article 17 of the ECHR,[3] stating that these are exceptional cases that do not diminish the essential power of the guarantee of freedom of expression (Renucci 2012, 186). Namely, the general aim of Article 17 of the ECHR is to prevent totalitarian groups from exploiting the principles proclaimed by the ECHR (Villiger 2012, 322-323). The European Commission of Human Rights [ECom.HR] has already taken the position (*ECom.HR, J. Glimmerveen and J. Hagenbeek v. The Netherlands*, 8348/78 & 8406/78, 11 October 1979) that Art. 17 the ECHR focuses essentially on rights that provide an opportunity to try, if invoked, to take effective action aimed at destroying the rights or freedoms guaranteed by the ECHR.

BOUNDARIES OF THE RIGHT TO FREEDOM OF EXPRESSION

The right to freedom of expression includes, in accordance with Art. 10 para. 1 ECHR, the freedom to hold opinions, to receive and impart information and ideas without interference by public authority and regardless of frontiers. There are exceptions to this

2) The US Supreme Court first acted in this way in 1919 (SCOTUS, *Schenk v. United States*, 249 U.S. 47-1919) when it assessed that the notion of „obvious and present danger" justifies the enactment of laws restricting freedom of expression. The key arguments he relied on were espionage during the war and subversive activities that the government sought to prevent. This second reason served during the Cold War as a basis for restricting the freedom of expression of the Communist Party (SCOTUS, *Dennis v. United States*, 341 U.S. 494-1951). The SCOTUS has subsequently significantly eased the restrictive approach and now requires the submission of evidence of concrete action, as freedom of expression cannot be restricted on the basis of ordinary statements.

3) Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention (art. 17 ECHR).

rule contained in Art. 10 para. 2 of the ECHR, and their ratio is derived from the duties and responsibilities that exist in the exercise of this right. The cases where the right to freedom of expression may be subject to formalities, conditions, restrictions or penalties prescribed by law and necessary in a democratic society are: national security, territorial integrity, public safety, prevention of disorder or crime, protection of health or morals, protection of reputation or the rights of others, preventing the disclosure of information obtained in confidence and preserving the authority and impartiality of the judiciary. Before a more detailed analysis of the relationship between the right to freedom of expression and the protection of the reputation of others, it will be considered the development of the practice of the Strasbourg authorities in the most important terms (Art. 10 para. 2 ECHR).

The European Court of Human Rights first ruled on the boundaries of freedom of expression in the *Handyside* case (ECtHR, *Handyside v. The United Kingdom*, 5493/72, 7 December 1976). It was about the seizure of „The Little Red Schoolbook", which was intended for students, and contained a part related to sex education. The position of the European Court of Human Rights was that the English courts did not violate Art. 10 ECHR.

Such an approach is based on the understanding that the right to freedom of expression applies not only to information or ideas that are accepted by the public with approval, but also to those that may offend, astonish and upset the state or part of the population. In other words, freedom of expression has been placed in the function of a democratic society as the highest value protected by the European Convention on Human Rights (Popović 2012, 325-326). The same verdict states that there is no uniform European system of „morality" and that states have a wide field of free assessment when determining measures to protect moral standards in society (Omejec 2013, 1269).[4]

4) Precisely this ECtHR judgment is considered to be the basis for the emergence of the doctrine of free assessment by national authorities. Namely, it expressed for the first time the position that state bodies, due to their direct and permanent contact with the most important forces in their countries, are in principle in a better position than any international judge to decide on the actual content of the request, as well as „necessity" „restrictions" or „penalties" aimed at meeting those requirements.

The existence of European differences could be one of the explanations for the inconsistency with which the European Court of Human Rights approached exceptions to the right to freedom of expression. Namely, until the entry into force of Protocol 11 to the ECHR in the practice of the ECtHR there was no excessive consistency in the interpretation of certain exceptions, which is an expression of the understanding that at the European level it is not possible to uniformly determine the requirement for protection of morals as opposed to protect the independence of the judiciary (Wachsmann 2012, 453). Accordingly, the Strasbourg Court found a violation of the right to freedom of expression due to the criminal conviction of a television journalist who published on the show statements of young people from the social margins who expressed extremely violent racist views (ECtHR [G.Ch.], *Jersild v. Denmark*, 15890/89, 23 September 1994). And in one case against France, in which national courts convicted persons of justifying the crimes of Marshal Péten's cooperation with the enemy (although it was not a denial of *stricto sensu*, but an attempt to initiate a debate on a comprehensive view of his role in public life), a violation of Art. 10 ECHR (ECtHR, *Lehideux and Isorni v. France*, 24662/94, 23 September 1998). In the doctrine part, there is an opinion that these decisions express the efforts of the European Court of Human Rights to condemn large democracies that seek to provide protection to „victims" of anti-democratic actions (Renucci 2012, 188-189).

Following the entry into force of Protocol 11 to the ECHR and the abolition of the European Commission of Human Rights in 1998, the practice of the ECtHR has become more uniform. This has the consequence that statements characterized by racist content, discrimination or hatred do not provide protection linked to the right to freedom of expression. In that sense, the ECtHR took the position that the conviction of the president of a political party for statements in which he publicly incited discrimination or hatred did not violate Art. 10 ECHR (ECtHR, *Féret v. Belgium*, 15615/07, 16 July 2009).

Some authors express concern that the practice of the ECtHR could move in the direction of giving excessive freedom to the media in relation to the discussion of issues of general interest

(Wachsmann 2012, 453-454). A drastic example is the case in which the European Court of Human Rights found that a French court violated the right to freedom of expression under Art. 10 ECHR by a decision banning the sale of the book of President Mitterrand's personal physician due to a serious violation of the obligation of professional secrecy (ECtHR, *Edition Plon v. France*, 58148/00, 18 May 2014). The health condition of the President of the Republic as an issue that can be the subject of public debate in a democratic society, was the key argument on which the Strasbourg verdict was based.

This evolution of ECtHR practice should come as no surprise, especially given that freedom of media coverage has always been given great importance, which means, among other things, that journalists can use exaggeration and even provocations to some extent (ECtHR, *Prager and Oberschick v. Austria*, 15974/90, 26 August 1995). Given that this approach carries the risk of sensationalism in the media, the task of the ECtHR is to contribute to the discussion of topics of general interest and at the same time to the development of professional reporting standards (Renucci 2012, 198-199).

One of the reasons why it is possible to restrict the right to freedom of expression is to protect the reputation or rights of others. Some authors consider that it is surprising that, until comparatively recently, there was so little direct authority under Art. 8 ECHR on media intrusion into the private lives of individuals (Ovey and White 2006, 296). This was „compensated" in a certain way by Resolution Res1165 (1998) of the Parliamentary Assembly of the Council of Europe on the right to privacy adopted on 26 June 1998. It is prescribed in Art. 4 that the right to privacy, guaranteed by Article 8 of the European Convention on Human Rights, has already been defined by the Assembly in the declaration on mass communication media and human rights, contained within Resolution 428 (1970), as „the right to live one's own life with a minimum of interference." The reference to Resolution 428 (1970) of the Parliamentary Assembly of the Council of Europe, adopted on 23 January 1970, which contained the Declaration on mass communication media and Human Rights, meant that the

term right to privacy concerns, inter alia, moral integrity, honour and reputation (Art. 16).

RIGHT TO RESPECT FOR A PRIVATE AND FAMILY LIFE

The right to respect for private and family life implies that everyone has the right to respect for his private life, his home and his correspondence (Art. 8 para. 1 ECHR). The doctrine emphasizes that privacy is a necessary condition that the processes, which contribute to social uniqueness and civilization, take place in accordance with human dignity. Privacy represents the possibility of respite and withdrawal from public life, provides an opportunity and space for reflection, thus opening the door to social engagement (Sourgens 2017, 360). The main goal of Art. 8 The ECHR is to provide effective protection of the individual against any arbitrary interference by public authorities (Renucci 2012, 265-266). It is somewhat strange that Art. 8 ECHR does not mention the right to respect for one's honor and reputation, although it does Art. 12 of the Universal Declaration of Human Rights which served as the main source of reference for the drafting of Art. 8 ECHR (de Vries 2018, 678).

This issue has been resolved in the practice of the ECtHR, which accepts that the right to protection of reputation is a right which is protected by Art. 8 ECHR as part of the right to respect for private life. It is about a broad term which is not susceptible to exhaustive definition, which covers the physical and psychological integrity of a person and can therefore embrace multiple aspects of a person's identity, such as gender identification and sexual orientation, name or elements relating to a person's right to their image (ECtHR [G.Ch.], *Axel Springer AG v. Germany*, 39954/08, 7 February 2012). In order for Art. 8 ECHR to come into play, however, an attack on a person's reputation must attain a certain level of seriousness and in a manner causing prejudice to personal enjoyment of the right to respect for private life (ECtHR [G.Ch.], *Bédat v Switzerland*, 56925/08, 29 March 2016). This requirement covers *social reputation* in general as well as *professional reputation* in particular (ECtHR [G.Ch.], *Denisov v. Ukraine*,

76639/11, 25 September 2018). The Court has held, moreover, that Art. 8 ECHR cannot be relied on in order to complain of a loss of reputation which is the foreseeable consequence of one's own actions (ECtHR [G.Ch.], *Axel Springer AG v. Germany*, 39954/08, 7 February 2012).

Despite the general agreement on the meaning of the right to personal and family privacy, it is clear that this is a term that is normatively expressed in a rather vague way. The ECtHR therefore faced the need to further define the content and scope of this right. The basic characteristic of the case law that has arisen in this regard can be defined as the expansion of the field of application of the right to respect for private and family life. One such way relates to the obligations of the state arising from the existence of this right. Namely, Art. 8 para. 1 The ECHR provides primarily for a *negative obligation* of the state to refrain from encroaching on human rights. In order to effectively exercise human rights, it is necessary for the state to take appropriate measures in that direction, which is defined as the concept of its *positive obligation*. The concept of a positive obligation of the state was introduced into the practice of the European Court of Human Rights in connection with the violation of Art. 8 ECHR (ECtHR, *Marckx v. Belgium*, 6833/74, 13 June 1979), to then be soon extended to the right of access to a court (Kuijer 2004, 53-55) as an integral part of the right to a fair trial under Art. 6 ECHR (ECtHR, *Airey v. Ireland*, 6289/73, 9 October 1979). Otherwise, the ECtHR connects the positive obligation, above all, to ensure and respect the right to life (Art. 2 ECHR) and the prohibition of torture (Art. 3 ECHR) (Ilić 2012, 146-148).

FREEDOM OF EXPRESSION VERSUS HONOUR AND REPUTATION

In the previous exposure it is pointed to the importance of the rights from Art. 8 and 10. ECHR. There are frequent cases in which arises the question to which of the mentioned rights should be given priority, especially if it is a question of the honour and reputation of a certain person. In searching for an answer to this question, it is necessary to look at the distinction between public

and private personalities, and then direct the analysis to the difference between *facts* and *value-judgments*.

Public and private personalities

The assessment of the existence of a breach of honour and reputation depends to a significant extent on the circumstances of whether a specific person performs a political or official function, or is otherwise involved in public life. Of crucial importance is the fact whether a certain person voluntarily exposed himself to the public or joined the public debate. If this is the case, it is understandable that he is expected to accept public control and criticism (McGonagle 2016, 39).

Such an approach also exists in the practice of the ECtHR, which points out that the limits of acceptable criticism are greater when it comes to a politician than a private person (ECtHR, *Jishkariani v. Georgia*, 18925/09, 20 September 2018). This principled approach does not exclude the possibility that the admissibility of certain statements may be assessed differently when it comes to private persons, under condition that they are included in the public debate. In such a case, they are expected to show a greater degree of tolerance for criticism (ECtHR, *Wirtschafts-Trend Zeitschriften-Verlagsgesellschaft m.b.H. (N° 3) v. Austria*, 66298/01 and 15653/02, 13 December 2005).

One of the questions that can be asked in this regard is related to university professors. It should be recalled that the Parliamentary Assembly of the Council of Europe adopted on 30 June 2006 Recommendation 1762 (2006) on Academic freedom and university autonomy which proclaims freedom of expression and the dissemination of knowledge without any restrictions. This document did not call into question the restrictions imposed by Art. 10 para. 2 of the ECHR, which means that the freedom of academic expression can be analyzed in the light of the violation of the reputation of another person, ie Art. 8 ECHR. It is important to emphasize that the ECtHR, when analyzing the freedom of expression of university professors, has in mind the freedom to distribute *knowledge* and *truth* without restriction (ECtHR, *Sorguç v. Turkey*, 17089/03, 23 June 2009).

Based on the current practice of the ECtHR (which will be discussed in more detail), it can be concluded that university professors represent public figures. However, this does not mean that they are expected to show the same level of tolerance as required of politicians, even when university professors, as experts in certain fields, are appointed by the authorities to certain advisory bodies (ECtHR, *Kaboğlu and Oran v. Turkey*, 1759/08, 50766/10 and 50782/10, 30 October 2018). This is not a specificity that is related exclusively to university professors, but it is an approach that is established in the practice of the ECtHR. The situation is similar with the position of a judge and a public prosecutor in criminal proceedings, because there is a fundamental difference between the roles of the prosecutor, being the opponent of the accused, and the judge. This distinction generally provides an increased protection for statements that are critical of the prosecutor (ECtHR, *Nikula v. Finland*, 31611/96, 21 March 2002).

Distinguishing facts and value-judgments

The boundaries of freedom of expression depend to a large extent on whether it is a factual statement or a value judgment. The matter is basically reduced to the possibility of proving, which should not be a problem with factual judgments, while with value attitudes such a thing would be excluded (Popović 2012, 327). This rule was established by the ECtHR in the mid-1980s, indicating that a careful distinction needs to be made between *facts* and *value-judgments*. The existence of facts can be demonstrated, whereas the truth of value-judgments is not susceptible to proof (ECtHR [Plenary], *Lingens v. Austria*, 9815/82, 8 July 1986). Although at first glance this distinction seems clear, in practice it is sometimes difficult to draw a clear line between these two terms (McGonagle 2016, 29).

The problem is that the value judgment, although not suitable for proof, may be excessive, in particular in the absence of any factual basis (ECtHR, *De Haas and Gijsels v. Belgium*, 19983/92, 24 February 1997). Therefore, the ECtHR cannot accept that a value judgment can only be considered as such if it is accompanied by the facts on which that judgment is based. The necessity of a link between a value judgment and its supporting facts may vary

from case to case according to the specific circumstances (ECtHR, *Feldek v. Slovakia*, 29032/95, 12 July 2001). In the case law of the Court in Strasbourg, there have been cases in which it has been stated that a statement of fact is a value-laden on (ECtHR, *Karsai v. Hungary*, 5380/07, 1 December 2009). In other words, the ECtHR introduced the term *fact-value judgments*.

REVIEW OF THE SITUATION IN THE REPUBLIC OF SERBIA

The Republic of Serbia has already been under the scrutiny of the ECtHR several times when it comes to the relationship between freedom of expression and protection of honour and reputation. First, in two cases from 2007, the European Court of Human Rights found a violation of Art. 10 ECHR. In the first case, the court found the applicant guilty of criminal defamation (ECtHR, *Lepojić v. Serbia*, 13909/05, 6 November 2007). The second case is specific in that the first-instance criminal court convicted the applicant of criminal defamation, while in the second-instance procedure the court, on the same facts, found the applicant guilty of the crime of insult, rather than criminal defamation (ECtHR, *Filipović v. Serbia*, 27935/05, 20 November 2007).

Given that the ECtHR judgments concerned the boundaries of freedom of expression in relation to public office holders, the Supreme Court of Cassation (SCC) took the view that the limits of acceptable criticism were wider when it came to public figures than private individuals. Unlike ordinary citizens, who do not have this quality, public figures are inevitably and consciously exposed to careful examination of their every word and action, both by journalists and the public in general, and therefore must show a greater degree of tolerance (Legal Department of the SCC, 25 November 2008).

Criminal defamation was deleted by the Criminal Code Amendments Act („Official Gazette of the Republic of Serbia", N° 121/12), so that the Criminal Code (CC) „Official Gazette of the Republic of Serbia", N° 85/05, 88/05 – correc., 107/05 – correc., 72/09, 111/09, 121/12, 104/13, 108/14, 94/16 and 35/19) contains the criminal offense of insult (Art. 170 CC).

After that, it was committed another injury to Art. 10 ECHR by the Republic of Serbia, which, among other things, can be explained by the fact that it was a case in which in civil proceedings is established a violation of honour, reputation and dignity, and the defendant, who is obliged to compensate for a damage, did not have the status of a public figure (ECtHR, *Tešić v. Serbia*, 4678/07 and 50591/12, 11 February 2014). The last case in which the Republic of Serbia violated the right from Art. 10 the ECHR referred to a case in which it was found that the applicant had committed a criminal offense of insult when having stated for a particular public figure „although she has been called a witch and a prostitute" and gave her a judicial warning. The court established that the impugned phrase had been indeed previously published in another article by another author in a different magazine. However, the applicant did not put it in quotation marks which meant that she agreed with it, thus expressing her opinion (ECtHR, *Milisavljević v. Serbia*, 50123/06, 4 April 2017).

Media ethics and media lynching

There are rare cases in which domestic courts have had the opportunity to discuss freedom of expression and the violation of honour and reputation between university professors. One of these was brought before the First Basic Court in Belgrade (FBCB) on a private lawsuit and ended with a conviction for criminal offense of insult (Art. 170 para. 2 in connection para. 1 CC) (FBCB, Judgment K. 868/11, 12 September 2013). The Appellate Court in Belgrade (ACB) dismissed the defendant's appeal as unfounded and upheld the first-instance judgement. The position of the Appellate Court was that the terms used by the defendant were objectively appropriate to insult the honour and reputation of another person, in this case a private prosecutor (ACB, Judgment Kž. 6814/13, 5 February 2014).

The subtitle of this part of the paper is identical to the title of the book in which the allegations were made which violated the honour and reputation of the private prosecutor. The writer's idea was that the book is used for teaching at the faculty (such a proposal did not receive support from other professors), and it is not without significance that the author of the book (ie the

accused) and the private prosecutor were professors at the same faculty. Given the mood of colleagues, as well as the outcome of the criminal proceedings that were later initiated, the question can be asked to what extent the views expressed in the book are consistent with the point of view that teachers are figures of authority to their pupils, their special duties and responsibilities to a certain extent also apply to their activities outside school (ECtHR [G.Ch.], *Vogt v. Germany*, 17851/91, 26 September 1995). The presented position of the ECtHR gained in importance especially because in this particular case it is about university professors and students.

Given that it was a book written by a university professor, it could be assumed that the disputed content included the defendant's polemics with the private prosecutor's scientific views, or a discussion of some issues of general importance to academia or the wider community. Unfortunately, that was not the case. After stating the name of his colleague, the accused wrote, among other things, that: „That individual ... he perceived a bit like a tick (*krpelj*). I have never been afraid of such individuals who looked to me like some kind of cringing person (*puzavci*) and slimy type (*ljigavci*) ... In the folklore of the Dinaric type of people, it is said for them: „That slimy (*ljiga*)". Just as houses are built of brick and mortar, so that individuals are built of evil (*zla*) and lies (*laži*)."

These are just some of the terms used to describe a private prosecutor. These are essentially statements of disparagement which, given that the statements are contained in the book, should have been learned from another. In our doctrine and court practice, disparagement is understood as denying or underestimating the *values* that make up a *honour* of one person (Stojanović 2020, 569). As a criterion for determining whether something constitutes belittling has been accepted an objective criterion, which means that the authoritative assessment is one from the aspect of existing customary, moral and other norms in a certain environment (570). Since the intention to belittle is not prescribed as a subjective element of criminal offense of insult, the position of the SCC is that the intention does not represent an essential element of the act (SCC, Kzz. 903/2020, 17 September 2020).

A statement of disrespect can represent both allegations of *fact* and (negative) *value judgments*. The untruthfulness of what

constitutes the content of an insulting statement is not necessary for the existence of the criminal offense of insult. This means that an insult can exist even if someone is disrespected by presenting true facts (Stojanović 2020, 570). Although the court should not engage in determining the truthfulness, ie untruthfulness of what constitutes the content of the offensive statement, nevertheless in the case of obviously true allegations, other circumstances under which the act was committed must be determined, ie. offensive character in the case of true statements of fact or correct value judgments can be determined only from all the circumstances of the case (the manner in which the statement was made, subjective orientation, etc.) (570-571).

Based on the above statements (but also other statements that he analyzed in detail), the first instance court „ ... could not accept the defendant's thesis that this book is not a clash with specific people, that its message is what kind of relationships should be established in professional and human behavior in academic communities ... ". The Court recalled „ ... that the limits of acceptable criticism are wider when it comes to public figures in relation to persons who do not have that capacity; that there is a right to communicate, in good faith, information on matters of public interest, even when it involves harmful statements to the individual; yes, however, it must not be a personal attack on the private life, in this case of a private prosecutor ... " (FBCB, Judgment K. 868/11, 12 September 2013). All this resulted in the criminal proceedings ending with a conviction for criminal offense of insult (Art. 170 CC).

In support of this view, it should be added that a person's reputation, even in a public hearing, is part of his or her identity derived from private life (ECtHR, *Pfeifer v. Austria*, 12556/03, 15 November 2007; *Petrina v. Romania*, 78060/01, 14 October 2008). In other words, it is a question of the right to privacy from Art. 8 ECHR.[5]

5) The reputation of a university professor can also be damaged by publishing an article in which, after describing the details of an event (which took place 19 years ago) from his sexual life, he is accused of exploiting a minor and sexual perversion. The Court in Strasbourg found a violation of Art. 8 ECHR, because Romanian courts have failed to strike a fair balance between the freedom of expression of journalists and the right of university professors to respect for private life. There is no doubt that the publication of the disputed article and photographs posed a serious threat to

FINAL REMARKS

An analysis of the relationship between freedom of expression and the right to respect for one's honour and reputation is of particular importance in the times in which we live. The presence of media content in the life of modern man, a social network whose importance is growing every day, the availability of information and the easiness with which certain content can be made public, are just some of the factors that confirm that freedom of expression reaches proportions that were difficult to predict. This undoubtedly has its good sides, but it also opens up some questions that require answers. One of them refers to the right to privacy, more precisely to the honour and reputation of a certain person.

That these are values to which special importance is attached is also testified by the fact that honour and reputation are stated in Art. 10 para. 2 ECHR as one of the reasons why freedom of expression may be restricted. In addition, the right to respect for privacy from Art. 8 the ECHR includes, according to the ECtHR, both the honour and the reputation of a particular person. This duality of the mentioned values confirms their exceptionality. They are, unlike in Roman law, which initially connected them only to illustres, ie the highest officials of the empire and their families (Katančević 2020, 338), recognized to every person, with a higher tolerance threshold for public figures than for individuals who do not participate in public life. Politicians are also the most exposed within the category of public figures, and the degree of tolerance for statements and attitudes that can be considered offensive is variable and depends on certain factors, as well as the circumstances of the specific case. In a word, there is no perfect solution, ie. there is not just one road that, following the example of the former roads, would lead to Rome.

honour and reputation and an attack on psychological integrity and private life. In addition, the Court is not convinced that national courts have attached due importance to the question of whether the article contributed to the debate of general interest and whether the university professor represents a public figure (ECtHR, *Ion Cârstea v. Romania*, 20531/06, 28 October 2014).

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* Manuscript was received on October 1, 2020 and the paper was accepted for publishing on November 30, 2020.